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In re Application of
Pergolizzi, et al.
Application No. 08/479,995
Filed: 7 June, 1995
Attorney Docket No. ENZ-(D1)(C2)

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: ON PETITION
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This is a decision on the petition under 37 CFR 1.137(b)¹, filed on 25 August, and supplemented by facsimile on 9 September, 1999, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 28 January, 1999, for failure to timely reply to the non-final Office action mailed on 27 October, 1998, which set a three (3)-month shortened statutory reply period. No extensions of time for reply were obtained. Notice of Abandonment was mailed on 25 May, 1999.

The Terminal Disclaimer filed on 9 September, 1999, is accepted. The period disclaimed is eight (8) months, which is equivalent to the period of abandonment.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

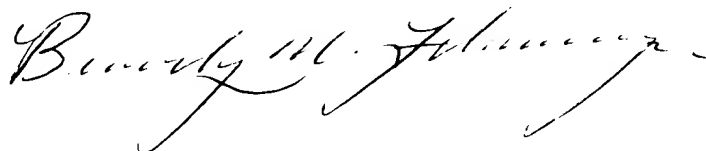
(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application is being forwarded to Technology Center 1600 for consideration of the Amendment filed 25 August, 1999.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

A handwritten signature in cursive script, reading "Beverly M. Flanagan". The signature is written in dark ink and is positioned above the printed name and title.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects